

## REMARKS

### Introductory Comments

As of the mailing date of the 05/13/2008 Office Action, claims 1, 4-15, 17-19, and 21 were pending in the present application. In the present Amendment, claims 11, 12, and 19 have been canceled without prejudice, claims 1, 4-10, 13-15, 17, 18, and 21 have been amended, leaving claims 1, 4-10, 13-15, 17, 18, and 21 for consideration upon entry of the present Amendment. The claims have been amended as explained below. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims is respectfully requested in view of the foregoing amendments and following remarks.

### Claim Amendments

— Claims 11, 12, and 19 have been canceled without prejudice.

Claim 1 has been amended to substitute “A bathroom tissue or facial tissue” for “A paper product” in the preamble. Support for this amendment can be found, at least, on page 12, line 20 of the application as filed. Corresponding amendments have been made in claims 4-10, 13-15, 17, 18, and 21.

Claim 1 has been further amended to characterize the fibrous substrate as “comprising a tissue furnish”. Support for this amendment can be found, at least, on page 7, line 24, of the application as filed. Corresponding amendments have been made in claims 18 and 21.

Claim 1 has been further amended to recite a strength agent amount of “from about 0.9% to about 5% by weight, based on the weight of the fibrous substrate”. Support for this amendment can be found, at least, on page 15, lines 27-29 of the application as filed. Corresponding amendments have been made in claims 18 and 21.

Claim 4 has been further amended to recite the limitation, “wherein the strength regions comprise a grid-shaped pattern of parallel and perpendicular linear regions on the

surface of the fibrous substrate”. Support for the amendment can be found, at least, on page 8, lines 20-21 of the application as filed.

Applicants are not conceding in this application that the canceled claims are not patentable over the art cited by the Examiner. Nor are Applicants conceding that the amended claims would not have been patentable without the current amendments. The present claim cancellations and amendments are intended only to facilitate expeditious allowance of valuable subject matter. Applicants respectfully reserve the right to present and prosecute the original versions of canceled and amended claims in one or more continuing applications.

#### Oath/Declaration

The Office Action states that the oath or declaration submitted 04/06/2005 is defective because it cites 37 C.F.R. § 1.56(a) rather than 37 C.F.R. § 1.56. 05/13/2008 Office Action, page 2, last paragraph, and page 3 first paragraph.

Applicants are submitting herewith a new declaration that recites the duty to disclose pursuant to 37 C.F.R. § 1.56.

#### Claim Objections Under 37 CFR 1.75(c)

Claims 12 and 19 stand objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. 05/13/2008 Office Action, page 3, second paragraph. These objections are rendered moot by the present cancellation of claims 12 and 19.

#### Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 4, 12 and 19 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. 05/13/2008 Office Action, page 4, second paragraph. Applicants respectfully traverse these rejections to the extent they may be applicable to the claims as currently amended.

With respect to claim 4, the Office Action states,

It is not clear whether the linearly shaped regions are lines, elongated rectangles, bars or stripes, or some other shape. The Specification fails to define what is meant by linearly shaped regions.

05/13/2008 Office Action, page 4, third paragraph. Claim 4 has been amended to recite the limitation, “wherein the strength regions comprise a grid-shaped pattern of parallel and perpendicular linear regions on the surface of the fibrous substrate”, thereby making clear that the linear regions are lines that define a rectangular grid. This amendment deletes the term “linearly shaped” that gave rise to the rejection. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. § 112, second paragraph.

The rejections of claims 12 and 19 are moot in view of the present cancellation of those claims.

Obviousness Rejections over Sheppard + Champaigne + (Oriaran OR Chen OR Alleged Admissions) + Drelich

Claims 1, 4-6, 9-15, 17-19, and 21 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 3,702,610 to Sheppard et al. (hereinafter “Sheppard”) in view of U.S. Patent No. 3,616,797 to Champaigne Jr. et al. (hereinafter “Champaigne”) and further in view of U.S. Patent No. 6,017,418 to Oriaran et al. (hereinafter “Oriaran”), U.S. Patent No. 6,261,679 to Chen et al (hereinafter “Chen”) or the alleged admissions of the instant disclosure, and as evidenced by U.S. Patent No. 3,865,775 to Drelich et al (hereinafter “Drelich”). 05/13/08 Office Action, page 5, second paragraph. The rejection of claims 11, 12, and 19 is moot in view of their present cancellation. Applicants respectfully traverse the rejection of claims 1, 4-6, 9-10, 13-15, 17, 18, and 21 to the extent it may be applicable to the claims as currently amended.

Sheppard generally describes a means for indicating when a sanitary napkin or diaper wrapped with a web bonded with a spaced pattern of water-dispersible adhesive is in condition for flushing away after it is dropped in a toilet for disposal. Sheppard

abstract. The indicating means is provided by including a water-soluble coloring agent or dye in the water-dispersible adhesive composition. *Id.* As the water disperses the adhesive, the dye migrates into the non-bonded area of the web or is diluted in the excess water, and the adhesive pattern substantially disappears, thus indicating that the adhesive has become softened sufficiently to permit the wrapper to be broken up readily by the flushing action of the water. *Id.* To form the web, Sheppard teaches the use of carded rayon fibers, as well as “other fibers including both natural and synthetic”. Sheppard, column 4, lines 15-17.

Champaigne is similar to Sheppard in that it generally relates to sanitary napkins and diapers. Champaigne abstract. Champaigne describes a flushable wrapper for such products. *Id.* The wrapper comprises a non-woven fiber web bonded by a water-soluble adhesive and overprinted with another binder comprising a spaced pattern of water-soluble adhesive. *Id.* The pattern of the latter adhesive is arranged so as to permit the web to be broken up into pieces approximating the size of a postage stamp when the web is soaked in excess water. *Id.* Champaigne is cited for allegedly providing details of an “alternative embodiment” of Sheppard “wherein a nonwoven fiber web is bonded by a water-soluble adhesive (dispersible region) and overprinted with a water-insoluble adhesive in a predetermined pattern of spaced segments (strength regions) (col 3, line 64 to col 4, line 9).” 05/13/2008 Office Action, page 6, third paragraph.

Oriaran generally describes hydrophilic, humectant, soft, pliant, single-ply or multiply absorbent papers in the form of napkin, towel, bathroom tissue or facial tissue. Oriaran abstract. Oriaran is cited for allegedly “disclos[ing] many of the claimed polymers for use as temporary wet strength agents (col 16, lines 35-44; col 18, lines 15-26).” 05/13/2008 Office Action, paragraph bridging pages 7 and 8. Oriaran is also cited for allegedly “disclos[ing] adding softening agents to papermaking fibers to interfere with the natural fiber-to-fiber bonding (strength reducing material) and lead to softer papers and tissues (col 2, lines 20-39; col 7, lines 12-16).” 05/13/2008 Office Action, second full paragraph.

Chen generally describes a fibrous absorbent structure that is wet stable and has large void volume with a density below the critical density of the fiber employed. Chen abstract. The wet-stable, high void volume fibrous absorbent can be used in a disposable product intended for the absorption of fluid such as body fluid, including extensible absorbent articles. *Id.* Chen is cited for allegedly teaching

that some of the claimed strength agents (i.e.-cationic glyoxylated polyacrylamides and dialdehyde starches) are well known in the art as temporary wet strength agents that provide a paper product that loses more than 50% of its strength in water and becomes water dispersible (the polymers are soluble when incorporated in the product). Other claimed strength agents (i.e.-amine-epichlorohydrin resins, polyethylenimines, urea formaldehydes, melamine formaldehydes) are well known in the art as permanent wet strength agents that provide a paper product that retains more than 50% of its strength in water (the polymers are insoluble when incorporated in the product (col 39, line 41 to col 40, line 60).

05/13/2008 Office Action, page 8, first full paragraph.

The Office Action points to the application as filed, page 3, line 28 to page 4, line 5, as an “admission” that certain cationic and nonionic strength agents “are known in the art”. 05/13/2008 Office Action, page 7, last full paragraph. Applicants respectfully assert that while the cited passage of the application does state that the specific cited polymers are known (i.e., they are known chemical compounds), it does not constitute an admission that the use of the specific polymers as cationic and nonionic strength agents is known.

Drelich generally describes a resin binder composition comprising: (1) a synthetic resin; (2) a water-soluble, polymeric, carboxylic thickener; and (3) a metal ammine complex coordination compound capable of releasing ions of said metal to control the total migration of the resin binder during its deposition on a fibrous web. Drelich abstract. Drelich is cited for allegedly

teach[ing] that well known printed bonding patterns applied to flushable fibrous webs include interconnecting or interlocking grids comprising straight or wavy lines extending transversely or diagonally across the webs and additionally, if desired, along the web (Abs; col 2, lines 24-30 and 42-46; col. 17, lines 15-18).

05/13/2008 Office Action, page 10, first paragraph.

Applicants respectfully assert that claims 1, 4-6, 9-11, 13-15, 17, 18, and 21 are patentable over the cited references because the Examiner's suggested modification of Sheppard according to the secondary references would not yield Applicants' bathroom tissue or facial tissue.

Independent claims 1, 18, and 21 have been amended to recite in their preambles a "bathroom tissue or facial tissue" and to recite in the body of the claims "a tissue furnish". In contrast, the primary reference Sheppard generally relates to sanitary napkins and diapers and specifically relates to a means for indicating when such products are in condition for flushing away after being dropped in a toilet for disposal. Sheppard does not relate to "bathroom tissue or facial tissue" and does not teach or suggest the use of "a tissue furnish". Modifying Sheppard according to any of the secondary references as suggested by the Examiner will still yield a sanitary napkin or diaper – not a bathroom tissue or facial tissue as presently claimed. To suggest that Sheppard's sanitary napkins and diapers could be modified to yield a bathroom tissue or facial tissue would be to render Sheppard inoperable for its intended purpose. *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir.) ("This court has previously found a proposed modification inappropriate for an obviousness inquiry when the modification rendered the prior art reference inoperable for its intended purpose.").

Furthermore, independent claims 1, 18, and 21 as currently amended recite a strength agent amount of "from about 0.9% to about 5% by weight, based on the weight of the fibrous substrate". In contrast, Sheppard teaches a binder amount of "about 5% to about 15% by weight". Sheppard, column 3, lines 41-42.

For all of the above reasons, a *prima facie* case of obviousness against independent claims 1, 18, and 21 has not been established, and these claims are patentable over the cited references. Claims 4-6, 9-10, 13-15, and 17, which each depend ultimately from and further limit claim 1, are also patentable over the cited references. Applicants therefore respectfully request the reconsideration and withdrawal of the rejection of claims 1, 4-6, 9-10, 13-15, 17, 18, and 21 under 35 U.S.C. 103(a) over

Sheppard in view of Champaigne and further in view of Oriaran or Chen or the alleged admissions of the instant disclosure, and as evidenced by Drelich.

Obviousness Rejections over Sheppard + Champaigne + (Oriaran OR Chen OR Alleged Admissions) + Srinivasan

Claims 6 and 14 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Sheppard in view of Champaigne and further in view of Oriaran, Chen or the alleged admissions of the instant disclosure, and even further in view of U.S. Patent No. 3,913,579 to Srinivasan et al. (hereinafter "Srinivasan"). 05/13/08 Office Action, page 10, second paragraph. Applicants respectfully traverse this rejection to the extent it may be applicable to the claims as currently amended.

Sheppard, Champaigne, Oriaran, Chen, and the alleged admissions are discussed above.

Srinivasan generally describes a sanitary napkin that includes a flushable absorbent pad and an extremely flushable nonwoven fibrous cover that is bonded with a totally water-soluble resinous binder. Srinivasan abstract. Srinivasan is cited for allegedly teaching application of hot melt adhesive "to the inside of the cover so as to not adversely affect the softness and feel of the cover." 05/13/2008 Office Action, page 10, last paragraph.

Applicants respectfully assert that claims 6 and 14 are patentable over the cited references because the Examiner's suggested modification of Sheppard according to the secondary references would not yield Applicants' claim 6 and 14 bathroom tissue or facial tissue. Claims 6 and 14 each depend ultimately from claim 1 and therefore relate generally to a bathroom tissue or facial tissue prepared from a substrate comprising a tissue furnish. As noted above, the primary reference Sheppard generally relates to sanitary napkins and diapers and specifically relates to a means for indicating when such products are in condition for flushing away after being dropped in a toilet for disposal. Modifying Sheppard according to any of the secondary references as suggested by the Examiner would still yield a sanitary napkin or diaper – not a bathroom tissue or facial

tissue as presently claimed. The substitution of Srinivasan for Drelich does not alter this conclusion. Accordingly, a prima face case of obviousness against claims 6 and 14 has not been established, and these claims are patentable over the cited references. Applicants therefore respectfully request the reconsideration and withdrawal of the rejection of claims 6 and 14 under 35 U.S.C. 103(a) over Sheppard in view of Champaigne and further in view of Oriaran or Chen or the alleged admissions of the instant disclosure, and even further in view of Srinivasan.

Obviousness Rejections over Sheppard + Champaigne + (Oriaran OR Chen OR Admissions) + Sun

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Sheppard in view of Champaigne and further in view of Oriaran, Chen or the admissions of the instant disclosure and even further in view of U.S. Patent No. 6,322,665 to Sun et al. (hereinafter "Sun"). 05/13/08 Office Action, page 11, second full paragraph. Applicants respectfully traverse this rejection to the extent it may be applicable to the claims as currently amended.

Sheppard, Champaigne, Oriaran, Chen, and the alleged admissions are discussed above.

Sun generally describes methods for making high wet performance webs, the methods including applying polymeric anionic reactive compound heterogenously to a cellulosic fibrous web followed by curing of the compound to crosslink the cellulose fibers. Sun abstract. Sun is cited for allegedly teaching that "Typical physical treatments to the tissue web, before or after application of the binder, include being creped, apertured, slit, embossed or calendered (col 14, lines 38-40)." 05/13/2008 Office Action, paragraph bridging pages 11 and 12.

Applicants respectfully assert that claims 7 and 8 are patentable over the cited references because modifying Sheppard according to the secondary references as suggested by the Examiner does not yield Applicants' bathroom tissue or facial tissue. Claims 7 and 8 each depend ultimately from claim 1 and therefore relate generally to a



bathroom tissue or facial tissue. As noted above, the primary reference Sheppard generally relates to sanitary napkins and diapers and specifically relates to a means for indicating when such products are in condition for flushing away after being dropped in a toilet for disposal. Modifying Sheppard according to any of the secondary references as suggested by the Examiner would still yield a sanitary napkin or diaper – not a bathroom tissue or facial tissue as presently claimed. The substitution of Sun for Srinivasan or Drelich does not alter this conclusion. Accordingly, a prima face case of obviousness against claims 7 and 8 has not been established, and these claims are patentable over the cited references. Applicants therefore respectfully request the reconsideration and withdrawal of the rejection of claims 7 and 8 under 35 U.S.C. 103(a) over Sheppard in view of Champaigne and further in view of Oriaran or Chen or the alleged admissions of the instant disclosure, and even further in view of Sun.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is respectfully requested.

It is believed that all the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' Attorneys.

Respectfully submitted,

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